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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	DELAWARE REAL ESTATE COMMISSION
MEETING DATE AND TIME:	Thursday, April 14, 2011 at 9:00 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
MINUTES APPROVED:	May 20, 2011

MEMBERS PRESENT

Vincent M. White, Professional Member, Chairman
Andrew Staton, Professional Member, Vice Chairman
Christopher J. Whitfield, Professional Member, Secretary
Gilbert Emory, Public Member
Denise R. Stokes, Public Member
Ricky H. Allamong, Professional Member
James C. Brannon, Jr., Public Member
Michael Harrington, Sr., Professional Member

DIVISION STAFF/ DEPUTY ATTORNEY GENERAL

Eileen Heeney, Deputy Attorney General
Gayle Melvin, Administrative Specialist III
Jessica Williams, Administrative Specialist II
Roger Aiken, Chief Hearing Officer
James Collins, Director, Division of Professional Regulation
Layton Ward, Investigator

MEMBER ABSENT

Patricia O'Brien, Public Member

ALSO PRESENT

Tim Riale
Denise Tatman, DAR
Michael Schachte

Audrey Brodie
Shay Weldin
Stacey Stewart, DAG
Michele Spaulding
Nancy Hawkins
Juli LaBadia, Court Reporter

CALL TO ORDER

Mr. White called the meeting to order at 9:00 a.m.

REVIEW OF MINUTES

A motion was made by Mr. Brannon, seconded by Mr. Emory to approve the minutes of the meeting held on March 10, 2011. The motion passed unanimously.

A motion was made by Mr. Staton, seconded by Mr. Whitfield to approve the minutes of the meeting held on March 22, 2011. The motion passed unanimously.

HEARINGS

9:30 a.m. – Case No. 02-13-09 Against Mark D. Epstein (Hearing Cancelled – Review of Consent Agreement)

Mr. White recused himself from this discussion. Mr. Staton chaired the meeting during the review of the consent agreement. Mr. Whitfield recused himself because he was the contact person for the complaint. The Commission reviewed the consent agreement for Case No. 02-13-09 against Mark D. Epstein. According to the consent agreement, Mr. Epstein's license will be placed on probation for a period of one year effective the date of mailing of the consent agreement. Prior to the end of the one year probationary period, Mr. Epstein shall be required to pay a fine in the amount of \$250 and must successfully complete ten hours of approved continuing education which includes at least six hours in ethics. These hours shall be in addition to the continuing education required for license renewal. A motion was made by Mr. Harrington, seconded by Mr. Brannon to accept the consent agreement. The motion passed by majority vote.

11:00 a.m. – Case No. 02-19-07 Against Bruce N. Wright (Hearing Cancelled – Review of Consent Agreement)

The Commission reviewed the consent agreement for Case No. 02-19-07 against Bruce N. Wright. Mr. Giles, a former Commission member, was the contact person for the complaint. A motion was made by Mr. Staton, seconded by Mr. Allamong to accept the consent agreement. Mr. Staton and Mr. Allamong voted in favor of the motion. The motion failed to pass.

OLD BUSINESS

Sign Final Orders from Rule to Show Cause Hearings Held on March 22, 2011

The final orders from the rule to show cause hearings held on March 22, 2011 for Patrick Argo, Nicole Oneal, Jane Bodine, Sharon Burkett, Cynthia Ndhlovu, Anamaria Anagnostou, Eric Marshall, Ryan Mullins, Esther Paul, Jeron Phillips, Robert Sander and Valerie Trzeciak were signed by Commission members.

Discussion: Moratorium on Approving Licensees to be Licensed With Two Separate Offices

A discussion was held concerning imposing a moratorium on approving licensees to be licensed with two separate offices. It was discussed that approving licensees to be licensed with two separate offices is not adequately covered in the statute or rules and regulations. Ms. Heeney advised the Commission that she had spoken with her supervisor about this issue and advised that the Commission had made the decision to approve licensees to be licensed with two separate offices for a number of months and had set a precedent. She advised that all licenses should be treated the same and that it was not appropriate to reverse their decision at this time. She advised that the Commission would need a compelling reason to stop. It was noted that to date no harm had been caused.

A motion was made by Mr. Allamong, seconded by Mr. Whitfield not to create a moratorium and proceed as the Commission has been doing. Mr. Allamong, Mr. Whitfield and Mr. Harrington voted in favor of the motion. Mr. Staton, Mr. White, Ms. Stokes and Mr. Emory voted against the motion. Mr. Brannon abstained. The motion failed to pass.

A motion was made by Mr. Staton, seconded by Ms. Stokes that effective April 15, 2011 the Commission impose a moratorium until rules and regulations are passed. This moratorium does not include those offices already approved. The motion passed by majority vote. Mr. Allamong, Mr. Whitfield and Mr. Harrington voted against the motion.

INTRODUCTION OF CHIEF HEARING OFFICER

Mr. Collins introduced the Division's new Chief Hearing Officer, Roger Akin, to the Commission. Mr. Collins explained to the Commission why there was a need for a Hearing Officer and how the process would work. A hearing officer would hear the matter, provide the findings of fact and recommend sanctions to the Commission. The Commission would be bound by the findings of fact. A letter from Mr. Collins had previously been sent to Commission members that outlined Mr. Akin's experience and background. Mr. Collins and Mr. Akin answered questions from Commission members. Mr. White requested that Ms. Melvin provide Commission members with a copy of the statute which grants the Division authority for hearing officers.

The Commission took a recess from 10:03 a.m. to 10:11 a.m.

OLD BUSINESS CONTINUED

Discussion: Proposed Changes to the Continuing Education Requirements

A motion was made by Mr. Brannon, seconded by Mr. Harrington to skip this item until later in the meeting. The motion passed by majority vote. Mr. Whitfield was not present to vote on this motion.

NEW BUSINESS

Applications for Licensure

A motion was made by Mr. Allamong, seconded by Mr. Emory to ratify the following new salesperson applicants as presented:

Sherilyn McLaughlin, Coldwell Banker Residential Brokerage, Berlin, MD
Shenetta Wilson, Keller Williams Realty, Christiana, DE
Jeffrey Ritterpusch, Buyer's Choice Real Estate Services, Inc., Ocean City, MD

Robert Smiles, Long and Foster, Rehoboth Beach, DE
Harold Deloach, Prudential Fox & Roach, Devon, PA
Michael Holoka, Prudential Fox & Roach, Devon, PA
Kristine McNeal, Prudential Fox & Roach, Wilmington, DE
Kate Tucker, Mark Fritschle Condominium Realty, Ltd., Ocean City, MD
Angela Clement, Keller Williams Realty, Christiana, DE
Tomas Twedde, Keller Williams Realty, Christiana, DE
Melissa Harpster, Keller Williams Realty Referral Associates, Bear, DE
Mark Robinson, Prudential Gallo Realtors, Lewes, DE
Michael Sullivan, Coldwell Banker Preferred, Wilmington, DE
Victor Kane, Re/Max Sunvest Realty, Wilmington, DE
Kimberly Fell, Keller Williams Realty, Christiana, DE
Thomas Walpole, R & R Commercial Realty, Dover, DE
Jeffrey Smith, Mann and Sons, Inc., Rehoboth Beach, DE
Charlotte Samans, Ocean Atlantic-Sotheby's International Realty, Rehoboth Beach, DE
Gretchen Apps, Weichert Realtors, Chadds Ford, PA
Christopher Lee, Equity Retail Brokers, Conshohocken, PA
Ronnie McFarland, ERA Harrington Realty, Inc., Dover, DE
Elizabeth Williams, Bay Coast Realty, Rehoboth Beach, DE
Lori Killian, Long & Foster, Rehoboth Beach, DE
Linda Thompson, Long & Foster, Bethany Beach, DE

The motion passed unanimously.

The application of David Della Porta for a non-resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Whitfield to propose to deny this application because Mr. Della Porta does not meet the requirements of Rule and Regulation 3.2.2. The motion passed unanimously.

The application of Jeff Franzen for a non-resident broker's license was reviewed. A motion was made by Mr. Whitfield, seconded by Mr. Staton to approve this application. The motion passed unanimously.

The application of Anthony Decicci for a non-resident broker's license was reviewed. A motion was made by Mr. Brannon, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

The application of Richard Gessner for a resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to propose to deny this application because Mr. Gessner does not meet the requirements of Rule and Regulation 3.2.2. The motion passed unanimously.

The application of Randall Mason for a resident broker's license was reviewed. A motion was made by Ms. Stokes, seconded by Mr. Harrington to approve this application. The motion passed unanimously.

The application of Domenick Peronti for an additional resident broker's license was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

The application of Michael Carpenter for a resident salesperson's license was reviewed. A motion was made by Mr. Allamong, seconded by Mr. Brannon to approve this application. The motion passed unanimously.

The application of Ashley Smarro for a resident salesperson's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Allamong to approve this application. The motion passed unanimously.

OLD BUSINESS CONTINUED

Discussion: Proposed Changes to the Continuing Education Requirements

Mr. Whitfield reported on the combined Subcommittee meeting that he and Mr. White attended on April 7, 2011 where the proposed changes to the continuing education requirements had been discussed. Commission members reviewed the revised core course contents for brokers and existing salespersons. It was discussed having 3 hours for commercial and 3 hours for property management. A motion was made by Mr. Staton, seconded by Mr. Allamong to eliminate the six additional hours of elective courses and add two additional modules to make a total of 7 modules with 21 hours of continuing education. The additional modules would include commercial and property management which must include vacation rentals. The motion passed by majority vote. Mr. Harrington voted against the motion. Next, Commission members reviewed the newly licensed salesperson course outline. A motion was made by Mr. Allamong, seconded by Mr. Staton to approve this outline and that a newly licensed non-resident licensee would be exempted for 2 years. The motion was approved unanimously.

NEW BUSINESS CONTINUED

Michael Schachte: Review of Request to Have His Probation Lifted

Commission members reviewed the letter from Mr. Schachte requesting to have his probation lifted. Mr. Allamong reported that Mr. Schachte had complied with his consent agreement. A motion was made by Mr. Brannon, seconded by Mr. Harrington to lift Mr. Schachte's probation. The motion was approved unanimously. Mr. Schachte was present and spoke to the Commission about some concerns that he had regarding the handling of his case and the underlying facts of his case. He was advised that it was not appropriate to discuss a possible complaint that could be brought before the Commission.

New Offices

The application of Emory Hill Residential Real Estate for a new office was reviewed. A motion was made by Mr. Brannon, seconded by Ms. Stokes to approve this application. The motion passed unanimously.

The application of Precision Realty Group of Delaware for a new office was reviewed. A motion was made by Mr. Brannon, seconded by Mr. Emory to approve this application. The motion passed unanimously.

Review of Letter from J. David Villabona Requesting to be Licensed with Two Offices

The Commission reviewed a letter from J. David Villabona requesting to be licensed with two companies. A motion was made by Mr. Allamong, seconded by Mr. Harrington to allow Mr. Villabona to be licensed with two companies. The motion passed unanimously.

New Offices Continued

The application of Realty Mark First State for a new office was reviewed. A motion was made by Mr. Staton, seconded by Mr. Allamong to approve this office. The motion passed unanimously.

The application of Ocean Atlantic Sotheby's International Realty in Lewes for a new office was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to approve this application pending receipt of documentation that the office has been furnished and the sign has been installed. The motion passed unanimously.

The application of Ocean Atlantic Sotheby's International Realty in Bethany Beach for a new office was reviewed. A motion was made by Mr. Staton, seconded by Ms. Stokes to approve this application pending receipt of documentation that the office has been furnished and the sign has been installed. The motion passed unanimously.

Reinstatement of License

The application of Shay Weldin for reinstatement of a resident salesperson's license was reviewed. A motion was made by Mr. Staton, seconded by Mr. Brannon to approve Ms. Weldin for reinstatement. The motion passed unanimously.

Status of Complaints

Complaint No. 02-05-10 – Closed
Complaint No. 02-06-10 – Closed
Complaint No. 02-04-11 – Assigned to Mr. Staton
Complaint No. 02-05-11 – Assigned to Mr. Allamong

Education Committee Report

Recommendation to Approve and Deny Course Providers, Instructor Applications and Student Requests as Noted

A motion was made by Mr. Harrington, seconded by Mr. Whitfield to approve and deny course providers, instructor applications and student requests as noted in the minutes of the April 7, 2011 meeting of the Real Estate Education Committee. The motion passed unanimously.

Discussion of Recent Superior Court Decision – Administrative Record – Ms. Heeney

Ms. Heeney advised Commission members about a recent Superior Court decision which impacts all administrative boards. The decision states that administrative boards can only rely on information entered into evidence and must deliberate on the testimony and documents provided to them at the hearing.

Review of Audit Information

The Commission reviewed the information submitted by Margaret Poisson in response to the rule to show cause hearing held on March 22, 2011. A motion was made by Mr. Staton, seconded by Mr. Allamong that Ms. Poisson was not in compliance and to schedule a second rule to show cause hearing. The motion passed unanimously.

Discussion: Annual Seminar

This was tabled until the next meeting.

Report on ARELLO Mid-Year Meeting Held on April 4-6, 2011 – Mr. White

This was tabled until the next meeting. Mr. White provided Ms. Melvin with a copy of his written report which will be distributed to Commission members at the next meeting.

The Commission took a recess from 11:45 a.m. to 12:37 a.m.

Review of Consent Agreement for Case No. 02-19-09 Against Joseph J. Verdejo

The Commission reviewed the consent agreement for Case No. 02-19-09 against Joseph J. Verdejo. According to the consent agreement, Mr. Verdejo agrees to immediately cease and desist activity as a real estate broker or salesperson in the State of Delaware without being licensed. A motion was made by Mr. Allamong, seconded by Mr. Staton to accept the consent agreement. The motion passed by majority vote. Ms. Stokes voted against the motion.

HEARING

Case No. 02-40-07 Against Michele L. Spaulding

Ms. Heeney called the formal hearing to order at 12:43 p.m. This hearing was held to receive evidence in the matter of Case No. 02-40-07 against Michele L. Spaulding. Mr. Kreger, former Commission member, was the contact person for the complaint. Present for the hearing were Stacey Stewart, Deputy Attorney General, Layton Ward, Michele Spaulding and Nancy Hawkins. Verbatim testimony was recorded by the court reporter.

Ms. Stewart presented her case. Ms. Stewart called Mr. Vance Mixell as her first witness. Mr. Mixwell testified by telephone. He answered questions from Ms. Stewart and Commission members. Ms. Stewart called Ms. Hawkins as her second witness. Ms. Hawkins answered questions from Ms. Stewart and Commission members. Ms. Stewart called Ms. Spaulding as her third witness. Ms. Spaulding answered questions from Ms. Stewart and Commission members. Ms. Spaulding also provided testimony on her behalf.

The Commission went off the record at 1:37 p.m. to hold deliberations. The Commission went back on the record at 1:50 p.m. A motion was made by Mr. Allamong, seconded by Mr. Whitfield that in Case No. 02-40-07 against Michele L. Spaulding, the State did not meet its burden of proof, there was conflicting testimony, the respondent was not creditable because of his conflicting testimony and the complaint is dismissed. The motion passed unanimously. The hearing ended at 1:51 p.m.

OTHER BUSINESS BEFORE THE COMMISSION (for discussion only)

The Joint Sunset Committee Public Hearing has been scheduled for April 27, 2011 at 4:30 p.m.

PUBLIC COMMENT

There was no public comment.

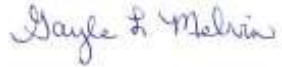
NEXT SCHEDULED MEETING

The next meeting will be held on Friday, May 20, 2011 at 9:00 a.m.

ADJOURNMENT

A motion was made by Mr. White, seconded by Mr. Whitfield to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 1:58 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Gayle L. Melvin".

Gayle L. Melvin
Administrative Specialist III